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February 3, 2021

Via ECF and CourierThe Honorable William H. Pauley III
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007Re: *Maribel Baez, et al. v. New York City Housing Authority,*
No. 13-CV-08916 (WHP) (S.D.N.Y.)

Dear Judge Pauley:

We represent Defendant New York City Housing Authority ("NYCHA") in this matter. We saw the letter and accompanying exhibits filed yesterday by Michael H. Sussman, who has represented himself as "counsel for a group of current and future NYCHA residents affected by current or future RAD/PACT conversions" (collectively referred to in this letter as the "Non-Parties"). See ECF No. 316. We will not address the substance of the Non-Parties' letter in this submission except to say that we disagree with its assertions and believe it contains several inaccuracies and mischaracterizations. Instead, we wish to make two observations that support our view that the Court should disregard the Non-Parties' letter.

First, the Non-Parties' letter is procedurally improper. The Non-Parties have purported to file the letter seeking leave as *amici* but have not waited for the Court to grant leave; instead, the letter simply presents the Non-Parties' arguments as if leave had already been granted. We believe that approach oversteps the mark. And, in any

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The Honorable William H. Pauley III

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event, there is no provision in the Local Rules or Federal Rules of Civil Procedure authorizing a party to make an *amicus* submission in this Court. As such, leave, to the extent the Non-Parties are requesting it, should be denied.

Second, the Non-Parties' letter is untimely, and identifies no justification for the delay. Plaintiffs in this action filed their letter seeking a pre-motion conference on November 27, 2020, and the Court issued a briefing schedule on December 9, 2020. Both Plaintiffs and NYCHA filed their briefs consistent with that schedule, and Plaintiffs' motion was fully briefed by January 19, 2021—some two weeks ago at this point. If the Non-Parties reasonably believed they had information that is material to the Court's consideration of Plaintiffs' motion, the time to ask the Court for permission to be heard was at least a few weeks ago, if not more—and certainly not *after* the parties' written submissions and *after* oral argument, thus depriving the parties of an opportunity to respond. Needless to say, it would be prejudicial to both parties, but NYCHA in particular, if the Court considered arguments and supposed evidence offered by the Non-Parties at this stage.

For these reasons alone, we believe the Court should give the Non-Parties' letter no consideration. However, if the Court is inclined to consider the Non-Parties' letter, we would respectfully request an opportunity to respond to it on the merits before the Court issues a ruling on Plaintiffs' motion.

Respectfully submitted,

/s/ Gregory F. Laufer

Gregory F. Laufer

cc (via ECF): All counsel of record
cc (via email): Michael H. Sussman, Esq.